

STATE OF MONTANA SINGLE AUDIT ACT

Title 2, Chapter 7, Part 5, MCA

Audits of Political Subdivisions

As of October 1, 2011

2-7-501. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Audit" means a financial audit and includes financial statement and financial-related audits as defined by government auditing standards as established by the U.S. comptroller general.

(2) "Board" means the Montana board of public accountants provided for in 2-15-1756.

(3) "Department" means the department of administration.

(4) (a) "Financial assistance" means assistance provided by a federal, state, or local government entity to a local government entity or subrecipient to carry out a program. Financial assistance may be in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, direct appropriations, or other noncash assistance. Financial assistance includes awards received directly from federal and state agencies or indirectly when subrecipients receive funds identified as federal or state funds by recipients. The granting agency is responsible for identifying the source of funds awarded to recipients. The recipient is responsible for identifying the source of funds awarded to subrecipients.

(b) Financial assistance does not include direct federal, state, or local government cash assistance to individuals.

(5) "Financial report" means a presentation of financial statements, including applicable supplemental notes and supplemental schedules, that are prepared in a format published by the department using the Budgetary Accounting and Reporting System for Montana Cities, Towns, and Counties Manual and that reflect a current financial position and the operating results for the 1-year reporting period.

(6) "Independent auditor" means:

(a) a federal, state, or local government auditor who meets the standards specified in the government auditing standards; or

(b) a licensed accountant who meets the standards in subsection (6)(a).

(7) (a) "Local government entity" means a county, city, district, or public corporation that:

(i) has the power to raise revenue or receive, disburse, or expend local, state, or federal government revenue for the purpose of serving the general public;

(ii) is governed by a board, commission, or individual elected or appointed by the public or representatives of the public; and

(iii) receives local, state, or federal financial assistance.

(b) Local government entities include but are not limited to:

(i) airport authority districts;

- (ii) cemetery districts;
- (iii) counties;
- (iv) county housing authorities;
- (v) county road improvement districts;
- (vi) county sewer districts;
- (vii) county water districts;
- (viii) county weed management districts;
- (ix) drainage districts;
- (x) fire companies;
- (xi) fire districts;
- (xii) fire service areas;
- (xiii) hospital districts;
- (xiv) incorporated cities or towns;
- (xv) irrigation districts;
- (xvi) mosquito districts;
- (xvii) municipal fire departments;
- (xviii) municipal housing authority districts;
- (xix) port authorities;
- (xx) solid waste management districts;
- (xxi) rural improvement districts;
- (xxii) school districts, including a district's extracurricular funds;
- (xxiii) soil conservation districts;
- (xxiv) special education or other cooperatives;
- (xxv) television districts;
- (xxvi) urban transportation districts;
- (xxvii) water conservancy districts;
- (xxviii) regional resource authorities; and
- (xxix) other miscellaneous and special districts.

(8) "Revenues" means all receipts of a local government entity from any source excluding the proceeds from bond issuances.

History: En. 82-4515 by Sec. 1, Ch. 380, L. 1975; R.C.M. 1947, 82-4515; amd. Sec. 7, Ch. 274, L. 1981; amd. Sec. 1, Ch. 287, L. 1983; amd. Sec. 1, Ch. 489, L. 1991; amd. Sec. 2, Ch. 7, L. 2001; amd. Sec. 33, Ch. 278, L. 2001; amd. Sec. 8, Ch. 483, L. 2001; amd. Sec. 3, Ch. 114, L. 2003; amd. Sec. 1, Ch. 449, L. 2007; amd. Sec. 24, Ch. 351, L. 2009.

2-7-502. Short title -- purpose. (1) This part may be cited as the "State of Montana Single Audit Act".

- (2) The purposes of this part are to:
 - (a) improve the financial management of local government entities with respect to federal, state, and local financial assistance;
 - (b) establish uniform requirements for financial reports and audits of local government entities;
 - (c) ensure constituent interests by determining that compliance with all appropriate statutes and regulations is accomplished;
 - (d) ensure that the financial condition and operations of the local government entities are reasonably conducted and reported;

(e) ensure that the stewardship of local government entities is conducted in a manner to preserve and protect the public trust;

(f) ensure that local government entities accomplish, with economy and efficiency, the duties and responsibilities of the entities in accordance with the legal requirements imposed and the desires of the public; and

(g) promote the efficient and effective use of audit resources.

History: En. 82-4517 by Sec. 3, Ch. 380, L. 1975; R.C.M. 1947, 82-4517; amd. Sec. 2, Ch. 489, L. 1991.

2-7-503. Financial reports and audits of local government entities. (1) The governing body or managing or executive officer of a local government entity, other than a school district or associated cooperative, shall ensure that a financial report is made every year. A school district or associated cooperative shall comply with the provisions of 20-9-213. The financial report must cover the preceding fiscal year, be in a form prescribed by the department, and be completed and submitted to the department for review within 6 months of the end of the reporting period.

(2) The department shall prescribe a uniform reporting system for all local government entities subject to financial reporting requirements, other than school districts. The superintendent of public instruction shall prescribe the reporting requirements for school districts.

(3) (a) The governing body or managing or executive officer of each local government entity receiving revenue or financial assistance in the period covered by the financial report in excess of the threshold dollar amount established by the director of the office of management and budget pursuant to 31 U.S.C. 7502(a)(3), but regardless of the source of revenue or financial assistance, shall cause an audit to be made at least every 2 years. The audit must cover the entity's preceding 2 fiscal years. The audit must commence within 9 months from the close of the last fiscal year of the audit period. The audit must be completed and submitted to the department for review within 1 year from the close of the last fiscal year covered by the audit.

(b) The governing body or managing or executive officer of a local government entity that does not meet the criteria established in subsection (3)(a) shall at least once every 4 years, if directed by the department, or, in the case of a school district, if directed by the department at the request of the superintendent of public instruction, cause a financial review, as defined by department rule, to be conducted of the financial statements of the entity for the preceding fiscal year.

(4) An audit conducted in accordance with this part is in lieu of any financial or financial and compliance audit of an individual financial assistance program that a local government is required to conduct under any other state or federal law or regulation. If an audit conducted pursuant to this part provides a state agency with the information that it requires to carry out its responsibilities under state or federal law or regulation, the state agency shall rely upon and use that information to plan and conduct its own audits or reviews in order to avoid a duplication of effort.

(5) In addition to the audits required by this section, the department may at any time conduct or contract for a special audit or review of the affairs of any local government entity referred to in this part. The special audit or review must, to the extent practicable, build upon audits performed pursuant to this part.

(6) The fee for the special audit or review must be a charge based upon the costs incurred by the department in relation to the special audit or review. The audit fee must be paid by the

local government entity to the department of revenue and must be deposited in the enterprise fund to the credit of the department.

(7) Failure to comply with the provisions of this section subjects the local government entity to the penalties provided in 2-7-517.

History: En. 82-4516, 82-4529 by Secs. 2, 15, Ch. 380, L. 1975; R.C.M. 1947, 82-4516(1) thru (3), 82-4529; amd. Sec. 1, Ch. 336, L. 1979; amd. Sec. 1, Ch. 573, L. 1981; amd. Sec. 1, Ch. 49, L. 1983; amd. Sec. 3, Ch. 277, L. 1983; amd. Sec. 1, Ch. 84, L. 1985; amd. Sec. 1, Ch. 565, L. 1985; amd. Sec. 1, Ch. 673, L. 1985; amd. Sec. 1, Ch. 140, L. 1989; amd. Sec. 3, Ch. 489, L. 1991; amd. Sec. 5, Ch. 430, L. 1995; amd. Sec. 1, Ch. 91, L. 1997; amd. Sec. 1, Ch. 458, L. 1997; amd. Sec. 47, Ch. 257, L. 2001; amd. Sec. 34, Ch. 278, L. 2001; amd. Sec. 1, Ch. 272, L. 2007; amd. Sec. 1, Ch. 289, L. 2011.

2-7-504. Accounting methods. (1) Unless otherwise required by law, the department shall prescribe by rule the general methods and details of accounting for the receipt and disbursement of all money belonging to local government entities and shall establish in those offices general methods and details of accounting. All local government entity officers shall conform with the accounting standards prescribed by the department.

(2) The rules adopted by the department must be in accordance with generally accepted accounting principles established by the governmental accounting standards board or its generally recognized successor.

History: En. 82-4530 by Sec. 16, Ch. 380, L. 1975; R.C.M. 1947, 82-4530; amd. Sec. 1, Ch. 1, Sp. L. June 1989; amd. Sec. 1, Ch. 11, Sp. L. June 1989; amd. Sec. 4, Ch. 489, L. 1991; amd. Sec. 6, Ch. 430, L. 1995; amd. Sec. 35, Ch. 278, L. 2001.

2-7-505. Audit scope and standards. (1) Each audit must be a comprehensive audit of the affairs of the local government entity and must be made in accordance with auditing standards and in accordance with federal regulations adopted by the department by rule.

(2) The department, with cooperation from state agencies, shall prepare a local government compliance supplement that contains state and federal regulations applicable to local government entities. Auditors shall use the compliance supplement adopted pursuant to this section in conjunction with government auditing standards adopted by the department to determine the compliance testing to be performed during an audit.

(3) When auditing a county or a consolidated government, auditors shall perform tests for compliance with state laws relating to receipts and disbursements of agency funds maintained by the entity. Findings related to compliance tests must be reported in accordance with the reporting standards for financial audits prescribed in government auditing standards adopted by the department.

History: En. 82-4518 by Sec. 4, Ch. 380, L. 1975; R.C.M. 1947, 82-4518; amd. Sec. 2, Ch. 573, L. 1981; amd. Sec. 5, Ch. 489, L. 1991; amd. Sec. 36, Ch. 278, L. 2001.

2-7-506. Audit by independent auditor. (1) The department may prepare and maintain a roster of independent auditors authorized to conduct audits of local government entities. The roster must be available to local government entities subject to the reporting requirements of 2-7-503.

(2) The department, in consultation with the board, shall adopt rules governing the:

(a) criteria for the selection of the independent auditor;

(b) procedures and qualifications for placing applicants on the roster;

(c) procedures for reviewing the qualifications of independent auditors on the roster to justify their continuance on the roster; and

(d) fees payable to the department for application for placement on the roster.

(3) An audit made by an independent auditor must be pursuant to a contract entered into by the governing body or managing or executive officer of the local government. The department must be a party to the contract and the contract may not be executed until it is signed by the department. All contracts for conducting audits must be in a form prescribed or approved by the department.

(4) The department shall notify the local government entity of a required audit, the date the report is due, and the requirement that the local government entity, the independent auditor, and the department must be parties to the contract.

(5) If a local government entity fails to present a signed contract to the department for approval within 90 days of receipt of the audit notice, the department may designate an independent auditor to perform the audit. The costs incurred by the department in arranging the audit must be paid by the local government entity to the department in the manner of other claims against the local government entity.

History: En. 82-4525 by Sec. 11, Ch. 380, L. 1975; R.C.M. 1947, 82-4525; amd. Sec. 3, Ch. 573, L. 1981; amd. Sec. 1, Ch. 260, L. 1989; amd. Sec. 6, Ch. 489, L. 1991; amd. Sec. 1, Ch. 146, L. 2011.

2-7-507. Duty of officers to aid in audit. The officers and employees of the local government entities referred to in this part shall provide all reasonable facilities for the audit and shall furnish all information to the independent auditor necessary for the conduct of the audit.

History: En. 82-4527 by Sec. 13, Ch. 380, L. 1975; R.C.M. 1947, 82-4527; amd. Sec. 7, Ch. 489, L. 1991.

2-7-508. Power to examine books and papers. The independent auditor may examine any books, papers, accounts, and documents in the office or possession of any local government entity.

History: En. 82-4528 by Sec. 14, Ch. 380, L. 1975; R.C.M. 1947, 82-4528; amd. Sec. 8, Ch. 489, L. 1991.

2-7-509. Audits of school-related organizations -- costs -- criteria. (1) The legislative auditor may conduct or have conducted an audit of the records of organizations referred to in 2-3-203(2).

(2) Before public funds are transferred to the organization, a member shall obtain the organization's written consent to:

(a) the audit provided for in subsection (1); and

(b) pay the costs of the audit.

(3) An audit of an organization performed under this section must determine if:

(a) the organization is carrying out only those activities or programs authorized by state law and its articles of incorporation, bylaws, and policies;

(b) expenditures are made in furtherance of authorized activities in accordance with applicable laws and its articles of incorporation, bylaws, and policies;

(c) the organization properly collects and accounts for all revenues and receipts arising from its activities in accordance with generally accepted accounting principles;

(d) the assets of the organization or the assets in its custody are adequately safeguarded and are controlled and used in an efficient manner; and

(e) reports and financial statements fully disclose the nature and scope of the activities conducted and provide a proper basis for evaluating the operations of the organization.

History: En. Sec. 1, Ch. 678, L. 1991.

2-7-510 reserved.

2-7-511. Access to public accounts -- suspension of officer in case of discrepancy. (1)

The independent auditor may count the cash, verify the bank accounts, and verify all accounts of a public officer whose accounts the independent auditor is examining under law.

(2) If an officer of any county, city, town, school, or other local government entity refuses to provide the independent auditor access during an audit of the officer's accounts to cash, bank accounts, or any of the papers, vouchers, or records of that office or if the independent auditor finds a shortage of cash, the independent auditor shall immediately file a preliminary report showing the refusal of that officer or the existence of the shortage and the approximate amount of the shortage with the respective county, city, or town attorney and the governing body of the local government entity.

(3) Upon filing of the statement, the officer of the local government entity shall after notice and the opportunity for a hearing be suspended from the duties and emoluments of office and the governing body of the local government entity shall appoint a qualified person to the office pending completion of the audit.

(4) Upon the completion of the audit by the independent auditor, if a shortage of cash existed in the accounts of the officer, the independent auditor shall notify the governing body of the local government entity of the shortage.

(5) If the governing body finds that a shortage exists and that the officer suspended is, by act or omission, responsible for the shortage, the officer's right to the office is forfeited and the report of the audit must be referred to the county attorney.

History: En. 82-4526 by Sec. 12, Ch. 380, L. 1975; R.C.M. 1947, 82-4526; amd. Sec. 1, Ch. 43, L. 1981; amd. Sec. 9, Ch. 489, L. 1991; amd. Sec. 52, Ch. 61, L. 2007.

2-7-512. Exit review conference. Upon completion of each audit, the independent auditor is required to hold with the appropriate officials an exit review conference in which the audit results must be discussed.

History: En. 82-4519 by Sec. 5, Ch. 380, L. 1975; R.C.M. 1947, 82-4519; amd. Sec. 10, Ch. 489, L. 1991.

2-7-513. Content of audit report and financial report. (1) The audit reports must comply with the reporting requirements of government auditing standards issued by the U.S. comptroller general and federal regulations adopted by department rule.

(2) The department shall prescribe general methods and details of accounting for the financial report for local government entities other than schools. The financial report must be submitted in a form required by the department. The superintendent of public instruction shall prescribe the general methods and details of accounting for financial reports for schools.

History: En. 82-4520 by Sec. 6, Ch. 380, L. 1975; R.C.M. 1947, 82-4520; amd. Sec. 11, Ch. 489, L. 1991; amd. Sec. 7, Ch. 430, L. 1995; amd. Sec. 37, Ch. 278, L. 2001.

2-7-514. Filing of audit report and financial report. (1) Completed audit reports must be filed with the department. Completed financial reports must be filed with the department as provided in 2-7-503(1). The state superintendent of public instruction shall file with the department a list of school districts subject to audit under 2-7-503(3). The list must be filed with the department within 6 months after the close of the fiscal year.

(2) At the time that the financial report is filed or, in the case of a school district, when the audit report is filed with the department, the local government entity shall pay to the department a filing fee. The department shall charge a filing fee to any local government entity required to have an audit under 2-7-503, which fee must be based upon the costs incurred by the department in the administration of this part. Notwithstanding the provisions of 20-9-343, the filing fees for school districts required by this section must be paid by the office of public instruction. The department shall adopt the fee schedule by rule based upon the local government entities' revenue amounts.

(3) Copies of the completed audit and financial reports must be made available by the department and the local government entity for public inspection during regular office hours.

History: En. 82-4521 by Sec. 7, Ch. 380, L. 1975; R.C.M. 1947, 82-4521(1), (3); amd. Sec. 1, Ch. 169, L. 1985; amd. Sec. 2, Ch. 140, L. 1989; amd. Sec. 12, Ch. 489, L. 1991; amd. Sec. 1, Ch. 509, L. 1995.

2-7-515. Actions by governing bodies. (1) Upon receipt of the audit report, the governing bodies of each audited local government entity shall review the contents and within 30 days shall notify the department in writing as to what action they plan to take on any deficiencies or recommendations contained in the audit report. If no deficiencies or recommendations appear in the audit report, notification is not required.

(2) Notification to the department shall include a statement by the governing bodies that noted deficiencies or recommendations for improvement have been acted upon by adoption as recommended, adoption with modification, or rejection.

(3) The local government entity shall adopt measures to correct the report findings and submit a copy of the corrective action plan to the department and, if the local government entity is a school district, shall also send a copy to the superintendent of public instruction. The department shall notify the entity of the acceptance of the corrective measures. If the department and the local government entity fail to agree, a conference between the parties must be held. Failure to resolve findings or implement corrective measures shall result in the withholding of financial assistance in accordance with rules adopted by the department pending resolution or compliance.

(4) In cases where a violation of law or nonperformance of duty is found on the part of an officer, employee, or board, the officer, employee, or board must be proceeded against by the attorney general or county, city, or town attorney as provided by law. If a written request to do so is received from the department, the county, city, or town attorney shall report the proceedings instituted or to be instituted, relating to the violations of law and nonperformance of duty, to the department within 30 days after receiving the request. If the county, city, or town attorney fails or refuses to prosecute the case, the department may refer the case to the attorney general to prosecute the case at the expense of the local government entity.

History: En. 82-4521, 82-4522 by Secs. 7, 8, Ch. 380, L. 1975; R.C.M. 1947, 82-4521(2), 82-4522; amd. Sec. 1, Ch. 128, L. 1991; amd. Sec. 13, Ch. 489, L. 1991.

2-7-516. Audit fees. (1) The compensation to the independent auditor for conducting an audit must be agreed upon by the governing body or managing or executive officer of the local government entity and the independent auditor and must be paid in the manner that other claims against the local government entity are paid.

(2) The compensation for an audit conducted by the department must be paid by the local government entity to the state treasurer and be deposited in an enterprise fund to the credit of the department.

History: En. 82-4524 by Sec. 10, Ch. 380, L. 1975; R.C.M. 1947, 82-4524; amd. Sec. 4, Ch. 573, L. 1981; amd. Sec. 3, Ch. 277, L. 1983; amd. Sec. 14, Ch. 489, L. 1991.

2-7-517. Penalties -- rules to establish fine. (1) When a local government entity has failed to file a report as required by 2-7-503(1) or to make the payment required by 2-7-514(2) within 60 days, the department may issue an order stopping payment of any state financial assistance to the local government entity or may charge a late payment penalty as adopted by rule. Upon receipt of the report or payment of the filing fee, all financial assistance that was withheld under this section must be released and paid to the local government entity.

(2) In addition to the penalty provided in subsection (1), if a local government entity has not filed the audits or reports pursuant to 2-7-503 within 180 days of the dates required by 2-7-503, the department shall notify the entity of the fine due to the department and shall provide public notice of the delinquent audits or reports.

(3) When a local government entity has failed to make payment as required by 2-7-516 within 60 days of receiving a bill for an audit, the department may issue an order stopping payment of any state financial aid to the local government entity. Upon payment for the audit, all financial aid that was withheld because of failure to make payment must be released and paid to the local government entity.

(4) The department may grant an extension to a local government entity for filing the audits and reports required under 2-7-503 or may waive the fines, fees, and other penalties imposed in this section if the local government entity shows good cause for the delinquency or demonstrates that the failure to comply with 2-7-503 was the result of circumstances beyond the entity's control.

(5) The department shall adopt rules establishing a fine, not to exceed \$100, based on the cost of providing public notice under subsection (2), for failure to file audits or reports required by 2-7-503 in the timeframes required under that section.

History: En. Sec. 6, Ch. 573, L. 1981; amd. Sec. 3, Ch. 3, L. 1985; amd. Sec. 15, Ch. 489, L. 1991; amd. Sec. 7, Ch. 42, L. 1997; amd. Sec. 2, Ch. 289, L. 2011.

2-7-518. Deposit of fees. All fees received from local government entities must be deposited in the enterprise fund to the credit of the department of administration for administration of Title 2, chapter 7, part 5.

History: En. Sec. 7, Ch. 573, L. 1981; amd. Sec. 3, Ch. 277, L. 1983; amd. Sec. 1, Ch. 287, L. 1983; amd. Sec. 16, Ch. 489, L. 1991; amd. Sec. 9, Ch. 483, L. 2001.

2-7-519 and 2-7-520 reserved.

2-7-521. Publication. (1) (a) After the expiration of the 30-day period provided for in 2-7-515(1), the local government entity shall send a copy of each audit report to a newspaper of general circulation in the area of the local government entity. However, each county audit report must be sent to the official newspaper of the county.

(b) For an audit report of a county or an incorporated city or town, the county, city, or town shall send to the appropriate newspaper a copy of a summary of significant findings regarding the audit report. The summary, which may not exceed 800 words, must be prepared by the independent auditor and contain a statement indicating that it is only a summary and is not intended to be used as an audit report.

(2) For an audit report of a county or incorporated city or town, a newspaper is required to publish only:

(a) the summary of significant findings provided for in subsection (1)(b); and

(b) a statement to the effect that the audit report is on file in its entirety and open to public inspection.

(3) For an audit report of a local government entity other than a county or incorporated city or town, the newspaper is required to publish only the statement provided for in subsection (2)(b) and a statement providing that the audited local government entity will send a copy of the audit report to any interested person upon request.

(4) Publication costs must be borne by the audited local government entity.

History: En. 82-4523 by Sec. 9, Ch. 380, L. 1975; R.C.M. 1947, 82-4523; amd. Sec. 1, Ch. 386, L. 1983; amd. Sec. 3, Ch. 140, L. 1989; amd. Sec. 1, Ch. 607, L. 1989; amd. Sec. 17, Ch. 489, L. 1991.

2-7-522. Report review. (1) The department shall determine whether the provisions of this part have been complied with by the independent auditor.

(2) Upon receipt of the audit report from the local government entity the department shall review the report. If the department determines the reporting requirements have not been met, the department shall notify the local government entity and the independent auditor submitting the report of the significant issues of noncompliance. The notification must include issuance of a statement of deficiencies by the department. The department shall allow the independent auditor 60 days to correct the identified deficiencies.

(3) If the corrections are not made within 60 days of the department's notice, the department shall notify the local government entity that the report has not been received. Failure to submit a report shall result in the withholding of payment of the audit fee pending resolution of the identified deficiencies or receipt of a corrected report.

(4) Upon review of the report, if the department determines the independent auditor has issued a report that fails to meet the auditing standards referred to in 2-7-513 or contains false or misleading information, the department shall notify the board.

(5) The department shall review the audit report findings and the response of the governing body or executive or managing officer of the local government entity submitted under 2-7-515. When the findings concern financial assistance, the department shall notify the state agency that is responsible for disbursing the state or federal funding.

(6) The department must have access in its office to the working papers of the independent auditor.

History: En. Sec. 18, Ch. 489, L. 1991.